

CHAPTER NINE

External Relationships

During the past quarter century, the U.S. Army Corps of Engineers maintained its traditional close relationship to Congress. At the same time, it developed stronger relationships to state, local and Indian tribal governments. The Corps also cultivated stronger partnerships with other federal agencies, such as when it responded to the U.S. Fish and Wildlife Service on endangered species issues, or cooperated with the Environmental Protection Agency on regulatory matters or provided disaster relief under the auspices of the Federal Emergency Management Agency. In step with the rest of the Corps' organization, the St. Paul District devoted increasing effort to developing and sustaining myriad relationships with other federal agencies, state and local governments and nongovernment organizations. This development reflected the growing complexity of the Corps' mission in the environmental era as well as new realities associated with government reform.

Relationship with Congress

Congress traditionally took a close interest in the Corps of Engineers, particularly in the civil works program, which provided a prize opportunity for federal spending in each congressional member's home state. In a practice known as "logrolling," congressmen refrained from criticizing civil works projects in another member's state in the expectation that the member would return the favor. In this way, the civil works program became a favorite arena for so-called "pork barrel politics" and the Corps became beholden to Congress. Beginning with President Carter and continuing through the Reagan, Bush and Clinton Administrations, the chief executives sought to cut useless "pork" or undesirable projects out of the civil works program and to wean the Corps from its close relationship to Congress. This power struggle affected the Corps primarily at the headquarters level and above – especially in the Office of the Assistant Secretary of the Army (Civil Works). At the district level, the Corps continued to communicate frequently with members of Congress who represented the respective states. In the St. Paul District, the district engineer communicated primarily with senators and congressmen from Minnesota, Wisconsin and North Dakota. Although Congress's relationship to the Corps in the last quarter century was highly contested at the national level, the relationship of local congressmen to the St. Paul District in this era might be better characterized as business as usual.

Local congressmen communicated directly with the district engineer. The local point of contact was crucial in times of disaster relief, such as during the Midwest floods of 1993. Congressmen also took the concerns of their constituents directly to the St. Paul District office, as when a Section 404 permit application became controversial or a feasibility study hung in the



Congressional Visits: Deputy Project Management Judy DesHarnais; Congressman Earl Pomeroy (D-North Dakota); District Engineer Colonel Robert L. Ball; and A. J. Wojciak, legislative assistant, on the steps of the Capitol, in March 2003. (Photo by Marsha Mose, courtesy of St. Paul District, Corps of Engineers)

balance. At no time was the relationship of Congress to the district office more apparent than in the 1990s when the Corps' reorganization plan called for elimination of the St. Paul District. Senators Paul Wellstone (D-Minnesota) and Dave Durenberger (R-Minnesota) joined eighteen other senators in protesting the plan. Wellstone and Representative Bruce Vento (D-Minnesota) visited the St. Paul District office and reassured Corps' employees, saying that they were doing all they could to block the Administration's reorganization plan or to develop an alternative plan. This meeting occurred in the cafeteria of the St. Paul Post Office and was attended by most of the district office's 440 employees.¹

Once each year, the district engineer visited members of Congress on Capitol Hill to inform them of the Corps' various activities in their states and congressional districts. Typically the deputy district engineer or chief of planning accompanied the district engineer, and prior to making the rounds in the Capitol these two officials would meet with their superiors at Corps'

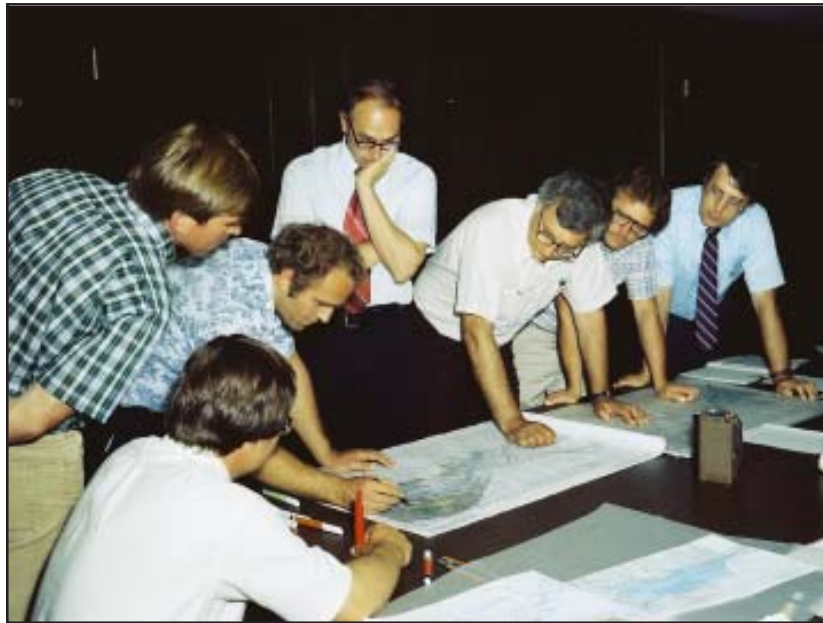
headquarters and the Office of the Assistant Secretary of the Army (Civil Works). Then, the district engineer and deputy district engineer proceeded to Capitol Hill, where they might get appointments with five or six senators and a dozen or more representatives. Sometimes they met with a congressional staff assistant but more often they spoke directly with a senator or congressman. They highlighted what was of most interest to each member – civil works projects, feasibility studies, the environmental management program, the Section 404 program – and they left briefing papers. The St. Paul District accomplished these congressional visits on a yearly basis in order to keep senators and congressmen informed of new developments and to establish or renew personal relationships. Since the district engineers were on a three-year rotation (or two-year rotation from 1991 to 2001) it was important for them to introduce themselves regularly.²

Interagency Cooperation

One of the most influential demands of the environmental movement was to force greater cooperation among government agencies. It was not enough to introduce interdisciplinary perspectives within a land-management agency such as the Army Corps. The holistic approach to environmental protection required interagency cooperation as well. Congress responded to this imperative by embedding innumerable requirements for interagency cooperation in environmental laws. The enthusiasm for establishing river basin commissions in the 1970s furthered the trend toward greater interagency cooperation.

In the St. Paul District, the focal point of interagency cooperation was the Mississippi River. Interagency cooperation began at the state level, as Minnesota, Wisconsin and Iowa shared concerns along the river where it formed state boundaries. It was institutionalized in the Upper Mississippi River Basin Commission established in 1972. The commission included the three states together with five federal agencies: the Army Corps of Engineers, the Fish and Wildlife Service, the Soil Conservation Service, the Environmental Protection Agency and the Department of Transportation. The Corps worked particularly closely with the Fish and Wildlife Service, for the Corps was responsible for dredging the navigation channel, while the Fish and Wildlife Service was responsible for managing fish and wildlife habitat. Indeed, much of the area was designated as wildlife refuges and came under the jurisdiction of the Fish and Wildlife Service. The placement of dredged material on man-made and natural islands and in back channels, sloughs and wetlands posed both a threat and an opportunity for habitat management.³ This was a classic example of the need for interagency cooperation.

Environmental groups were vigilant in demanding interagency cooperation in order to make one federal agency serve as a watchdog over another federal agency. The Corps had a long-standing arrangement of transferring funds to the Fish and Wildlife Service to help the latter agency study and recommend ways to modify civil works projects so as to enhance fish and wildlife habitat. The Fish and Wildlife Coordination Act authorized the transfer of funds. When



Interagency cooperation: District personnel consult with U.S. Fish and Wildlife Service staff, 1982. (Photo courtesy of Lyle Nicklay, St. Paul District, Corps of Engineers)

the Army threatened to eliminate the transfers in the early 1980s, a prominent Washington-based environmental group, the Wildlife Management Institute, protested. The departments of natural resources of Wisconsin and Minnesota also stood to lose both funding and input regarding Corps' actions if the Army decision held.⁴

Congress responded to these concerns by mandating more intensive cooperation between the Corps and the Fish and Wildlife Service on the Upper Mississippi. Congress designated the Upper Mississippi River System a nationally significant ecosystem. It funded a series of "habitat projects" along the river under the Corps' new environmental management program.⁵ The habitat projects were a combination of dredge-and-fill operations and bank stabilization efforts, each designed with a view to enhancing fish and wildlife habitat while preserving the navigable waterway. These projects involved the Fish and Wildlife Service in project design and environmental monitoring. The states participated under cost-sharing agreements.⁶

After Congress authorized the Mississippi National River and Recreation Area in 1988, the Corps coordinated with the National Park Service on navigation and recreation issues. The protected area extended for 69 miles along the river from Dayton, Minnesota, to Hastings, Min-

nesota, and the St. Paul District commander served as commissioner on an advisory board. The Corps already consulted with the National Park Service on matters involving historic properties and other cultural resources under the Corps' jurisdiction, as required by the National Historic Preservation Act of 1966 and NEPA. The historic properties included the system of locks and dams on the Mississippi River. The Corps additionally coordinated with the National Park Service on issues involving the Rainy River drainage in Voyageurs National Park, located on Minnesota's international border with Ontario.

Interagency cooperation became yet more structured in the Upper Mississippi River System Environmental Management Program established by Congress. Although the Environmental Management Program was fundamentally a partnership, Congress invested the Corps with overall responsibility for federal management of the program. The Corps actively coordinated with the U.S. Department of the Interior, the Upper Mississippi River Basin Association and the five states of Minnesota – Wisconsin, Illinois, Iowa and Missouri. The Corps' North Central Division managed the program, while three districts – St. Paul, Rock Island and St. Louis – managed the habitat projects within their boundaries. The Environmental Management Program recognized the river's importance both as a system of major national wildlife refuges and a commercial waterway for navigation.⁷

International Cooperation

The International Joint Commission, or IJC, is a permanent body established by the Boundary Waters Treaty of 1909. Its purpose is to deal impartially with problems of mutual concern wherever waters extend along or flow across the international boundary. Historically, the IJC was concerned primarily with obstruction or diversion of water, particularly where it affected navigability. In the latter part of the twentieth century, it became increasingly involved with water quality, especially in the Great Lakes. As the St. Paul District is bounded on the north by the international border with Canada, the district is one of a handful of Corps' districts involved with the IJC. After the St. Paul District boundaries were realigned in 1979, the district was no longer concerned with Great Lakes matters. In its present configuration the St. Paul District encompasses three rivers that flow along or across the international border: the Rainy, Red and Souris rivers.

The IJC consists of six commissioners: three Canadians and three Americans. One member from each nation serves full-time as a cochairman, while the other two commissioners from each nation serve part-time. The commissioners act as a unitary body and are supposed to make decisions which will best serve both nations. While the IJC itself maintains only a small technical staff, it is empowered to establish boards, composed of engineers and other technical experts from both nations, to oversee particular issues. The boards may meet regularly or conduct studies,



The Souris River at Minot, North Dakota, with levee and channel work performed by the Corps of Engineers. (Courtesy St. Paul District, U.S. Army Corps of Engineers)

and they make recommendations to the IJC.⁸

In 1980, the St. Paul District district engineer served on seven different boards under the IJC. These were the International Lake of the Woods Control Board (established 1925), International Rainy Lake Board of Control (1940), International Prairie Portage River Board of Control (1939), International Souris-Red Rivers Engineering Board (1948), International Pembina River Engineering Board (1962), International Roseau River Engineering Board (1971) and International Garrison Diversion Study Board (1975). The number of boards proliferated as the IJC became more involved with pollution issues. In 2001, the district engineer served on four international boards: the International Lake of the Woods Control Board, International Rainy Lake Board of Control, International Souris-Red Rivers Engineering Board, and International Red River Board of Control.⁹ Each board comprised a small number of public officials from each nation. The International Souris-Red Rivers Engineering Board, for example, included three U.S. officials from the Bureau of Reclamation, Corps of Engineers and the Geological Survey together with two Canadian officials from the departments of Agriculture and Environment.¹⁰

As has been discussed in Chapter Four, the Souris and Red rivers present difficult problems for flood control. Both rivers flow north. Spring thaw generally occurs upstream (in the United States) before it occurs downstream (in Canada), causing floodwaters to back up and overflow the riverbanks. Moreover, the two river valleys are exceptionally flat and the floodplains cover large

expanses containing both urban and agricultural development. The Corps of Engineers operates a number of flood control dams and reservoirs on these rivers and their tributaries in North Dakota and on the Minnesota-North Dakota state line.

Relations with Indian Tribes

At the end of the twentieth century the Corps was no newcomer to political controversies involving Indian tribes and resources. Numerous dam projects had involved the Corps with the Bureau of Indian Affairs and tribal representatives since the 1930s.¹¹ For most of this period, however, the federal government treated tribes as dependent wards, with the government in the role of trustee and guardian. This began to change in the 1970s, when the Nixon Administration adopted a national policy of Indian self-determination aimed at promoting tribal self-government. Congress enacted the Indian Self-Determination and Education Assistance Act of 1975, which initiated a broad program of federal support for greater tribal autonomy in the management of tribal resources. With federal assistance, tribes took control of programs formerly under the Bureau of Indian Affairs and tribal governments increased their power through the formation of intertribal political organizations. As one example of this trend, tribes in Michigan, Wisconsin and Minnesota formed The Great Lakes Indian Fish and Wildlife Commission, which pressed for the protection of treaty rights through legal action.

Environmental legislation in the 1970s required federal agencies to consult with tribal governments on actions that could affect tribal resources or treaty rights. The National Environmental Policy Act of 1969, the River and Harbor and Flood Control Act of 1970 and the Water Resources Development Act of 1974 provided new requirements for the Corps to deal with Indian tribes. In 1978, these requirements were strengthened by the Council on Environmental Quality, which published "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969." Under these regulations, the Corps needed to consult with tribes concerning project development and project de-authorization, real estate acquisition and disposal, water resources planning, wildlife mitigation and other environmental management programs, cultural resources management and regulatory functions. Importantly, these consultation requirements were not limited to actions involving Indian lands but extended to other Indian resources such as cultural sites and off-reservation hunting and fishing grounds associated with treaty rights.¹²

President Jimmy Carter sought to increase coordination between the Corps and tribes on water development projects. In a memorandum concerning federal and Indian reserved water rights dated July 12, 1978, Carter outlined procedures for federal agencies to evaluate Indian water development projects and to increase Indian water development in conjunction with quantification of water rights. Secretary of the Interior Cecil D. Andrus established a federal task force, which held a series of meetings with Indian representatives and made recommendations in

a report. It specifically recommended the Corps establish procedures for coordinating with tribes on water development projects and for consulting with tribes on permit applications that might affect tribal resources. While the Corps initially responded favorably to the recommendations, the initiative died with the advent of the Reagan Administration in 1981.¹³

Federal environmental legislation and Indian policy were not the only factors that encouraged tribes to assert tribal sovereignty during the last quarter of the twentieth century. As the courts and the Indian Claims Commission entered judgments awarding money to tribes for past actions by the United States (mainly involving inadequate compensation for land takings), tribes often employed these funds so as to assert themselves in economic planning and development. Moreover, various court rulings in this era reaffirmed tribal sovereignty in matters ranging from the power to tax and create corporations and administer justice for tribal members, to environmental matters such as the authority to regulate water quality on the reservation. In the mid-1980s, the Environmental Protection Agency initiated government-to-government agreements with tribes concerning the setting of water quality standards. Courts subsequently upheld the Environmental Protection Agency's authority to treat Indian tribes as states under the Clean Water Act.

The move toward government-to-government relations significantly advanced when President Bill Clinton signed a memorandum dated April 29, 1994, directing the head of each executive department and agency to improve federal cooperation with tribal governments. Clinton specifically called for a government-to-government framework for dealing with federally-recognized tribes. In response to Clinton's initiative, the Acting Assistant Secretary of the Army for Civil Works, John H. Zirschky, directed the Corps to hold interest-group workshops and gather data aimed at improving the Corps' working relationships with tribal governments. The Corps assigned this responsibility to a Native American Intergovernmental Relations Task Force under the auspices of the Institute for Water Resources.¹⁴

Between February and June 1995, field personnel met with tribal representatives of 186 tribes. Each district office prepared an after action report on the workshops and supplied the data to the task force. The task force found a nationwide pattern of "conflict ... between the Corps multistage execution of its water resource missions and its obligation, as a Federal agency, to honor the commitments made to Federally Recognized Tribes in treaties, statutes, administrative orders, and court cases." It stated the Corps had an obligation "to reconcile these conflicts as they arise."¹⁵

The St. Paul District participated in two workshops, the first drawing representatives of ten tribes in Minnesota and North Dakota, and the second, held jointly with the Detroit District, drawing representatives of all nine federally-recognized tribes in Wisconsin.¹⁶ The general format of the workshops was a series of presentations on Corps' programs followed by round-table

discussions of tribal concerns. Many of the tribes' comments were directed at the regulatory program. For example, the tribes wanted assurance that the Corps would enforce clean water standards where the tribes adopted more stringent standards than the states, and they wanted the Corps to "lobby" against weakening of the Clean Water Act. (On the latter point, Corps' officials stated the Corps does not lobby for or against its programs, and that tribes must take this initiative.) Another theme in the discussions concerned the definition of tribal trust resources. The Corps wanted the tribes to identify their trust resources, and it offered to assist the tribes with wetland mapping, aerial and ground surveys and other means. The tribes stated they lacked money and manpower to do this, and they believed the Corps defined trust resources too narrowly. In particular, they disagreed with the St. Paul District counsel's view that a tribal trust resource must be specifically mentioned in a federal legal document such as a treaty or executive order. The tribes noted that many tribal trust resources related to cultural heritage or spiritual values and could not be described in "Euro-Asian terms" for the Corps.¹⁷

Part of the workshops' emphasis on the Corps' regulatory responsibilities stemmed from the controversy surrounding the Crandon Mine proposal, which threatened to impact no fewer than eight federally-recognized tribes. Three tribes occupied reservations in the vicinity of the mine: the Forest County Potawatomi Tribe, the Menominee Indian Tribe and the Sokaogon Chippewa Community (Mole Lake Band). Five other tribes reaffirmed in court their rights to hunt, fish and gather in the area around the mine. These tribes were the Red Cliff Band of Lake Superior Chippewa, the Bad River Band of Lake Superior Chippewa, the Lac Courte Oreilles Band of Lake Superior Chippewa, the Lac du Flambeau Band of Lake Superior Chippewa and the St. Croix Band of Lake Superior Chippewa. Additional tribes potentially had trust resources at stake, having ceded lands in the area.¹⁸

When the workshops convened, the three tribes whose reservations were near the Crandon Mine had recently produced a study, "The Potential Cultural Impact of the Development of the Crandon Mine on the Indian Communities of Northeastern Wisconsin." This contracted report by two anthropologists and a biologist described the history of resource use by the affected tribes and the potential environmental impacts of mining operations. The report warned of sulfuric acid pollution in Rice Lake and the Wolf River – vital resources to the Mole Lake Band and the Menominee Tribe respectively – not only as a consequence of mining, but also in anticipation of mine abandonment many years in the future.¹⁹ Tribal representatives raised these concerns in the workshop three months later when they admonished the Corps to evaluate projects on a longer time frame. Although the Corps normally considered project lives of fifty to a hundred years, one tribal representative stated, tribal policy was to consider effects on the next seven generations. Therefore, the Corps was urged to weigh the benefits of a mine that might create an economic boom for twenty to forty years against the costs of "decades of restoration work."²⁰

Each of the three tribes in the vicinity of the Crandon Mine had unique concerns. The Mole



Native American relations: Swamp Creek flows just north of the formerly proposed Crandon Mine site into the Mole Lake Indian Reservation where the tribe harvests wild rice from Rice Lake. (Photo courtesy of Jon Ahlness, St. Paul District, Corps of Engineers)

Lake Band occupied a reservation only two miles from the mine site, and the reservation encompassed Rice Lake, from which they harvested wild rice. According to early versions of the mining proposal, wastewater from the mine would enter Swamp Creek and flow into Rice Lake, threatening the wild rice crop. The Potawatomi were located on lands northeast of the mine site and their primary concern pertained to air quality. They did not want airborne pollutants descending on the area and contaminating the plants and animals that formed a substantial part of their diet. The Menominee Reservation, meanwhile, was located south of the mine site and was traversed by the Wolf River. The portion of the river flowing through the reservation is a national wild and scenic river. The tribe was concerned about the water quality of the river, particularly as several tribal chiefs were buried along its banks.²¹

Tribal demands that the Corps define its trust responsibilities toward Indian tribes intensified in 1997, when the Corps handed the Crandon Mining Company a seeming victory in its long effort to develop the mine. Faced with formidable problems in protecting the water quality in the vicinity of the mine, the Crandon Mining Company altered its proposal and requested state approval to pump 600 gallons per minute of treated wastewater some 38 miles to the Wisconsin River. The Corps determined the transfer of water from the Great Lakes basin to the Mississippi

River watershed would not be illegal because the federal diversion law applied only to surface waters.²² Although the Corps' ruling was soon superseded by other developments, it served as a catalyst for an exchange of issue papers between the Corps and the tribes about the Corps' trust responsibilities.

Tribal attorneys accused the Corps of failing to consider its trust responsibilities adequately. In answer to these charges, the St. Paul District developed an issue paper about the Corps' trust responsibilities toward Indian tribes in the regulatory permitting process. Prepared by District Counsel Edwin C. Bankston, the issue paper was reviewed by attorneys in Corps' headquarters, who concurred in its analysis.²³ On September 29, 1997, District Engineer Colonel J. M. Wonsik transmitted the issue paper to the tribes, proposing the Corps meet with tribal representatives sixty days later for consultation.²⁴ This meeting never took place.²⁵

Bankston's eleven-page paper addressed a number of issues, citing federal case law. Fundamentally, the Corps had a responsibility, explicitly recognized in *Northwest Sea Farms, Inc. v. U.S. Army Corps of Engineers* (1996) to protect Indian treaty rights. In other words, the Corps could not issue a Section 404 or Section 10 permit that would cause a treaty right to be impinged or abrogated.²⁶ This much was unambiguous.

Most Indian treaties in Minnesota and Wisconsin conditionally secured "usufructuary rights" to hunt, fish and gather wild foods on lands off the reservation. These rights were limited to "ceded lands," or demarcated areas that each tribe had once occupied and ceded to the United States during the nineteenth century. Bankston held that the Indians' usufructuary rights to resources such as game and fish invested the federal government with a trust responsibility toward those same resources; thus, the Corps had to consider Indian treaty rights both on and off reservations. However, Bankston noted, the usufructuary rights were extinguished when the land passed into private ownership. In contrast, Indian treaties in the Pacific Northwest made usufructuary rights perpetual. Bankston argued the difference was significant, that it affected the federal government's obligation to determine some form of mitigation when treaty rights were involved. The Corps, he wrote, should apply the same criteria to permit applications for activities on or off reservations; however, it was "very likely" that an activity located off reservation would have a lesser impact on tribal resources.²⁷

Since the Corps' regulatory program required that it conduct a public interest review for all individual permit applications, Bankston asked: did the Corps' tribal trust responsibilities take precedence over public interests? Bankston argued that tribal resources should be "considered in the public interest review just as any other similarly sized community would be." But, he added, adverse impacts to natural resources could have a greater effect on Indians than on non-Indians, since the "individual Indian may be more closely tied to the defined land area than his non-Indian counterpart."²⁸

One-and-a-half years later, the Great Lakes Indian Fish and Wildlife Commission, representing several tribes in Minnesota, Wisconsin and Michigan; the Sokaogon Chippewa Community; and the Menominee Indian Nation jointly prepared a detailed response to the Bankston's issue paper entitled "Tribal Rights and Trust Responsibility."²⁹ The nineteen-page paper explained the legal basis for tribal rights in natural resources for each of the affected tribes, and then it opined on federal trust responsibilities. M. Catherine Condon, an attorney representing the Indian groups, transmitted the paper to the St. Paul District on April 15, 1999.³⁰

Tribal representatives and Corps' officials met in St. Paul on April 23, 1999, to discuss the two papers. Although the papers were close on many points, two critical differences emerged. First, the tribes held that the federal government's trust responsibility required the Corps choose the regulatory alternative that would be in the best interests of the tribes; the Corps, on the other hand, insisted that it need only consider tribal interests alongside others. The second difference was a procedural issue that followed from the first point: the tribes believed that the Corps' consideration of trust resources must be decoupled from the public interest review process; the Corps maintained that the two could be handled at once.³¹



Native American relations: A consultation between District Engineer Colonel Robert L. Ball (right) and the Menominee Tribe was conducted at the Menominee Indian Reservation. Ken Fish, Menominee Treaty Rights Office, a representative from the Bureau of Indian Affairs, is on the left. (Photo courtesy of Jon Ahlness, St. Paul District, Corps of Engineers)

Tribal representatives and the Corps had two follow-up meetings in an attempt to resolve differences raised by the issue papers – the first on May 26 in St. Paul, and the second on June 23 in Keshena, Wisconsin. The tribes continued to argue that trust responsibilities required separate consideration. Indeed, representatives of the Mole Lake Band refused to participate in meetings with representatives of the Crandon Mining Company. When the Corps allowed company representatives to attend one of these meetings – because the company was concerned as well about whether tribal interests would be separated out of the public interest review – the Mole Lake Band walked out of the meeting. Henceforth, the Corps initiated dual monthly telephone conference calls: one with the company and one with the tribes.³² Government-to-government meetings continued between the district engineer and tribal chairpersons in 2001 and 2002.³³

There was no clear resolution of the question: do trust responsibilities take precedence over public interest review? In terms of *process*, the tribes appeared to have won their point: the Corps initiated its own EIS rather than team with the state Department of Natural Resources on this mammoth study owing to the federal government's trust responsibilities to the tribes, and its consultation with the tribes took the form of government-to-government talks. But in terms of *product*, the Corps would not allow its hands to be tied. As the massive environmental impact study neared completion, it remained unclear how trust resources would be defined and what level of protection they would be afforded.

Ultimately, the Forest County Potawatomi and Mole Lake Band concluded the federal government's trust responsibility would not necessarily preclude development of the mine. To assure the mine would not be developed, the two tribes decided to purchase the property with tribal funds. On October 28, 2003, the tribes acquired 5,770 acres in Forest County and 169 acres in Shawano and Oconto counties for \$1.6 million. A few days later, the tribes withdrew the application to open the mine, ending twenty-five years of controversy over impending environmental impacts. The Mole Lake Band's chairwoman, Sandra Rachal, stated, "We made this decision to protect our people and our resources." Whether the Corps would have denied a Section 404 permit for the Crandon Mine in the final analysis anyway would never be known, but certainly the controversy forced the St. Paul District to explore facets of the Corps' federal trust responsibility to Indian tribes as no other district had. The district's government-to-government relations with these Indian tribes established a positive foundation for further engagement with tribal governments in the future.

Conclusion

Regional planning and interagency cooperation have become increasingly vital concerns to the Corps in the last quarter century. As land managers seek to balance competing interests and to accomplish tasks with finite resources, they must ensure that one agency's actions do not conflict with another's, and that resources are shared whenever possible. For the St. Paul District, manag-

ing the Upper Mississippi River is the most complicated interagency effort it has ever undertaken. Yet, other demands on the district highlighted the trend toward greater government-to-government consultation as well as interagency cooperation. Situated on the boundary with Canada, the Corps consulted with land managers across the border. And, it dealt with the unique relationship between the federal government and Indian tribes, consulting with tribal governments on issues affecting Indian trust resources.

Chapter Nine Endnotes

- 1 *Star Tribune* (Minneapolis), 8 June 1991 and 3 July 1991.
- 2 Congressional visits are described in Memoranda for Record. Memoranda for 1989-1997 were provided courtesy of J. A. Stadelman, Chief, Programs Management Branch.
- 3 George W. Griebenow, "A Team Called GREAT," *Water Spectrum* 9, No. 1 (Winter 1976-77): pp. 20-21.
- 4 *Courier Press* (Prairie du Chien), 25 April 1984.
- 5 Richard C. Nelson, field supervisor, to John R. Brown, District Engineer, 10 June 1991, File 1110 Fish and Wildlife Transfer Fund, Box 4466, SPDAR
- 6 EMP Status Report, 11 August 1994, File 1105 Environmental Management Program Status Report, Box 4467, SPDAR.
- 7 U.S. Army Corps of Engineers, *Upper Mississippi River System Environmental Management Program: Sixth Annual Addendum*, (Chicago: U.S. Army Corps of Engineers, 1991), p. 4.
- 8 International Joint Commission, "1980 Annual Report," Box 3539, SPDAR, pp. 4-6.
- 9 Kenneth Kasprisin, Memorandum 10-1-1, 26 January 2001, <<http://mvpiis/RMOffice/docs/MissionStatement>> (September 2002).
- 10 *Annual Report to the International Joint Commission by the International Souris-Red Rivers Engineering Board for the period October 23, 1990 to October 23, 1991*, File 15-1e International Joint Commission, Box 4338, SPDAR.
- 11 Katherine Weist, "For the Public Good: Native Americans, Hydroelectric Dams, and the Iron Triangle," in *Trusteeship in Change: Toward Tribal Autonomy in Resource Management*, edited by Richmond L. Clow and Imre Sutton (Boulder: University Press of Colorado, 2001), pp. 55-72. Some Corps dealings with Indian tribes date to the 19th century. Dams in the headwaters of the Mississippi River adversely affected lands belonging to Minnesota Chippewa bands in the late 19th and early 20th centuries. See Jane Lamm-Carroll, "Dams and Damages," *Minnesota History* (Spring 1990): pp. 4-15.
- 12 Janet McDonnell, "The U.S. Army Corps of Engineers and Native American Tribes," in Native American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, Vol. 2, IWR Report 96-R-6a (Washington: U.S. Army Corps of Engineers, 1996), p. 4.
- 13 McDonnell, "The U.S. Army Corps of Engineers and Native American Tribes," pp. 17-18.
- 14 Native American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, Vol. 1, IWR Report 96-R-6 (Washington: U.S. Army Corps of Engineers, 1996), p. 1.
- 15 Native American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, p. vii.
- 16 After Action Report Tribal Assessment Workshop, 2 May 1995, and 9 May 1995, in Native

American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, pp. 260, 292.

17 After Action Report Tribal Assessment Workshop, 2 May 1995, in Native American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, pp. 266-279.

18 M. Catherine Condon to Ben A. Wopat, Assistant Chief, 21 June 1999, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

19 Charles Cleland, Larry Nesper, and Joshua Cleland, "The Potential Cultural Impact of the Development of the Crandon Mine on the Indian Communities of Northeastern Wisconsin," report prepared under contract with the Sokaogon Band of Chippewa, The Menominee Tribe of Wisconsin, and the Forest County Potawatomi in cooperation with The Great Lakes Indian Fish and Wildlife Commission in behalf of the Lake Superior Chippewa, 15 February 1995, Matt Percy Crandon Mine file, SPDAR.

20 After Action Report Tribal Assessment Workshop, 2 May 1995, in Native American Intergovernmental Relations Task Force, *Assessment of Corps/Tribal Intergovernmental Relations*, Vol. 2, IWR Report 96-R-6a (Washington: U.S. Army Corps of Engineers, 1996), p. 268.

21 Ben Wopat, interview by Matthew Godfrey, St. Paul, 24 October 2002, p. 18.

22 *Antigo Journal*, 13 August 1997.

23 Lester Edelman, Chief Counsel, to District Counsel, 9 July 1997, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

24 J. M. Wonsik, District Engineer, to James Schlender, Executive Administrator, Great Lakes Indian Fish & Wildlife Commission, 29 September 1997, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

25 James E. Zorn to Ben Wopat, Assistant Chief, 16 July 1999, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

26 Edwin C. Bankston, "Issue Paper and District Recommendation: The Agency's Trust Responsibilities toward Indian Tribes in the Regulatory Permitting Process," no date, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

27 Edwin C. Bankston, "Issue Paper and District Recommendation: The Agency's Trust Responsibilities toward Indian Tribes in the Regulatory Permitting Process," no date, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

28 Edwin C. Bankston, "Issue Paper and District Recommendation: The Agency's Trust Responsibilities toward Indian Tribes in the Regulatory Permitting Process," no date, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

29 "Tribal Rights and Trust Responsibility," no date, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

30 M. Catherine Condon to Char Hauger, Regulatory Branch, 15 April 1999, John Ahlness Tribal

Trust (Crandon Project) file, SPDAR.

31 “Tribal Rights and Trust Responsibility,” no date, John Ahlness Tribal Trust (Crandon Project) file, SPDAR.

32 Kenneth S. Kasprisin, District Engineer, to Chairman Apesanakwat, undated, John Ahlness Tribal Trust (Crandon Project) file, SPDAR; Wopat Interview, p. 22.

33 Information Paper, September 2002, provided to authors by John Ahlness.